

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBIN TROWSSE,

Plaintiff,

Case No. 07-11506

v.

District Judge David M. Lawson

HEMBREE

City of Pontiac Police Officer,

Defendant.

**ORDER GRANTING IN PART AND DENYING IN PART
DEFENDANT'S MOTION TO STRIKE WITNESSES**

Before the Court is Defendant's Motion to Strike Witnesses and Prohibit Testimony at Trial [Docket #12]. For the reasons and under the terms stated on the record on November 8, 2007, the motion is GRANTED IN PART AND DENIED IN PART, as follows:

1. Witnesses Amanda McMichaels and Samantha McMichaels have been deposed. The motion to strike those witnesses is therefore DENIED AS MOOT.

2. The parties agree that witnesses Destiny Trowsse, Faith Trowsse and Michael Trowse will not be called as witnesses, and may be stricken from Plaintiff's witness list. The motion to strike these witnesses is therefore GRANTED.

3. Plaintiff has agreed to produce Corey Trowsse (Plaintiff's son) for deposition at a time mutually agreeable to Plaintiff's and Defendant's counsel. The motion to strike Corey

Trowsse is DENIED WITHOUT PREJUDICE. If Corey Trowsse does not appear for deposition as agreed by the parties, then Defendant may renew the motion to strike.

4. Witnesses Heather Lee and Andre Wilson were served with deposition subpoenas, but did not appear at their scheduled depositions. It does not appear that the failure of these witnesses to appear for deposition is attributable to the Plaintiff, and striking these witnesses and precluding their trial testimony is not the prescribed remedy at this time. Therefore, the motion to strike these witnesses is DENIED WITHOUT PREJUDICE.

However, under Fed.R.Civ.P. 45, witnesses Lee and Wilson are subject to contempt of court sanctions if they fail to appear for a deposition after having been properly served with a subpoena. At this time, the Court directs Defendant to serve Lee and Wilson with new subpoenas, along with a copy of this Order. If, after having been properly served, the witness fails to appear for deposition, he or she will be ordered to appear personally before this Court to show cause why sanctions should not be imposed for contempt of court.

SO ORDERED.

S/R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Dated: November 8, 2007

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing order was served on the attorneys and/or parties of record by electronic means or U.S. Mail on November 8, 2007.

S/Gina Wilson
Judicial Assistant